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Attorneys for CenterPoint Properties Trust

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re: : **Chapter 11**
:
SEARS HOLDINGS CORPORATION, et al., : **Case No. 18-23538 (RDD)**
:
Debtors.¹ : **(Jointly Administered)**
-----X

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: Sears Holdings Corporation (0798); Kmart Holding Corporation (3116); Kmart Operations LLC (6546); Sears Operations LLC (4331); Sears, Roebuck and Co. (0680); ServiceLive Inc. (6774); A&E Factory Service, LLC (6695); A&E Home Delivery, LLC (0205); A&E Lawn & Garden, LLC (5028); A&E Signature Service, LLC (0204); FBA Holdings Inc. (6537); Innovel Solutions, Inc. (7180); Kmart Corporation (9500); MaxServ, Inc. (7626); Private Brands, Ltd. (4022); Sears Development Co. (6028); Sears Holdings Management Corporation (2148); Sears Home & Business Franchises, Inc. (6742); Sears Home Improvement Products, Inc. (8591); Sears Insurance Services, L.L.C. (7182); Sears Procurement Services, Inc. (2859); Sears Protection Company (1250); Sears Protection Company (PR) Inc. (4861); Sears Roebuck Acceptance Corp. (0535); Sears, Roebuck de Puerto Rico, Inc. (3626); SYW Relay LLC (1870); Wally Labs LLC (None); Big Beaver of Florida Development, LLC (None); California Builder Appliances, Inc. (6327); Florida Builder Appliances, Inc. (9133); KBL Holding Inc. (1295); KLC, Inc. (0839); Kmart of Michigan, Inc. (1696); Kmart of Washington LLC (8898); Kmart Stores of Illinois LLC (8897); Kmart Stores of Texas LLC (8915); MyGofer LLC (5531); Sears Brands Business Unit Corporation (4658); Sears Holdings Publishing Company, LLC. (5554); Sears Protection Company (Florida), L.L.C. (4239); SHC Desert Springs, LLC (None); SOE, Inc. (9616); StarWest, LLC (5379); STI Merchandising, Inc. (0188); Troy Coolidge No. 13, LLC (None); BlueLight.com, Inc. (7034); Sears Brands, L.L.C. (4664); Sears Buying Services, Inc. (6533); Kmart.com LLC (9022); and Sears Brands Management Corporation (5365). The location of the Debtors' corporate headquarters is 3333 Beverly Road, Hoffman Estates, Illinois 60179.

**LIMITED OBJECTION OF CENTERPOINT PROPERTIES TRUST
TO SUPPLEMENTAL NOTICE OF CURE COSTS AND POTENTIAL
ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS AND
UNEXPIRED LEASES IN CONNECTION WITH GLOBAL SALE TRANSACTION**

CenterPoint Properties Trust (“*CenterPoint*”) hereby submits this limited objection (this “*Objection*”) to the *Supplemental Notice of Cure Costs and Potential Assumption and Assignment of Executory Contracts and Unexpired Leases in Connection with Global Sale Transaction* [Docket No. 1774] (the “*Supplemental Notice*”)² filed and served by the debtors and debtors-in-possession in the above-captioned chapter 11 cases (collectively, the “*Debtors*”) in connection with the proposed assumption by Debtor Innovel Solutions, Inc. (“*Innovel*”) and assignment of a certain unexpired lease to Transform Holdco, LLC (the “*Proposed Buyer*”). In support hereof, CenterPoint respectfully states the following:

BACKGROUND

1. CenterPoint and Innovel are parties to a certain Lease (as amended, modified, or supplemented from time to time, the “*Lease*”).³ Pursuant to the terms of the Lease, CenterPoint leased to Innovel a facility located in Seattle, Washington to be used by the Debtors as a logistics and distribution center.

2. On November 19, 2018, the Court entered the *Order Approving Global Bidding Procedures and Granting Related Relief* [Docket No. 816], which approved, among other things, global bidding and sale procedures in connection with the sale or disposition of substantially all of the Debtors’ assets (the “*Global Assets*”).

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Supplemental Notice.

³ The Lease is and should be treated as confidential and is therefore not attached to this Objection. Nevertheless, CenterPoint understands that the Debtors possess an executed copy of the Lease that they have made available to the Proposed Buyer.

3. The Supplemental Notice states that the Proposed Buyer submitted the highest or best offer for the Global Assets. The Debtors have executed an asset purchase agreement with the Proposed Buyer for the purchase of the Global Assets, dated January 17, 2019 (the “*APA*,” and the transaction effected thereby, the “*Global Asset Sale Transaction*”).

4. Exhibit B-1 annexed to the Supplemental Notice lists the Lease as an Additional Lease to be assumed and assigned to the Proposed Buyer. The cure amount specified for the Lease is \$224,583.33 (the “*Cure Amount*”).

5. The Supplemental Notice provides, among other things, that any Counterparty to an Additional Contract or Additional Lease who wishes to object to the proposed assumption, assignment, or potential designation of its Additional Contract or Additional Lease, the subject of which objection is the Proposed Buyer’s (a) ability to provide adequate assurance of future performance or (b) the proposed form of adequate assurance of future performance with respect to such Contract or Lease, must file a written objection on or before January 31, 2019 at 4:00 p.m. (Eastern Time).

6. The Supplemental Notice further states that “Adequate Assurance Information” for the Proposed Buyer will be distributed to the applicable Counterparties. According to the Debtors, such information is intended to provide Counterparties to the Contracts and Leases with adequate assurance of future performance and to support the Proposed Buyer’s ability to comply with the requirements of adequate assurance of future performance, including the Proposed Buyer’s financial wherewithal and willingness to perform under the Contracts and Leases.

7. As of the date hereof, neither the Debtors nor the Proposed Buyer have provided any information to CenterPoint regarding the Proposed Buyer’s capabilities, resources, capitalization, or financial wherewithal.

LIMITED OBJECTION AND RESERVATION OF RIGHTS

8. In an abundance of caution, CenterPoint objects to the proposed assumption and assignment of the Lease to the Proposed Buyer for lack of adequate assurance of future performance, which is a prerequisite to assumption and assignment under section 365(b)(1)(C) and (f)(2)(B) of the Bankruptcy Code.

9. Although adequate assurance information may be provided at a later date, as of the date hereof, CenterPoint has not received any information from either the Debtors or the Proposed Buyer regarding the Proposed Buyer's financial wherewithal, insurance coverage, capabilities, resources, personnel, or capitalization. Accordingly, CenterPoint objects to the proposed assumption and assignment of the Lease to the Proposed Buyer on the basis that CenterPoint cannot make an informed decision regarding the Proposed Buyer's ability to comply with the requirements of adequate assurance of future performance, including the Proposed Buyer's financial wherewithal and ability to perform under the Lease.

10. Nothing in this Objection is intended as or should be construed as a waiver of any rights or defenses that CenterPoint or any of its affiliates may have with respect to the Lease. The failure to object to the assumption and assignment of any executory contract or unexpired lease identified in the Supplemental Notice does not constitute an admission by CenterPoint or any of its affiliates that (a) any document identified constitutes a valid and enforceable contract, (b) any contract is an executory contract or unexpired lease, or (c) CenterPoint or any of its affiliates has any further obligations with respect to any executory contract or unexpired lease.

11. CenterPoint reserves the right to amend this Objection with regard to any later-issued supplemental assumption notices that amend, modify, supplement, or alter the proposed treatment of the Lease or the Cure Amount, or if facts become known to CenterPoint that would lead to an objection as to the currently-stated Cure Amount.

CONCLUSION

WHEREFORE, CenterPoint respectfully requests that this Court enter an order sustaining CenterPoint's objection to the proposed assumption and assignment of the Lease.

Dated: January 30, 2019

Respectfully submitted,

/s/ Derek L. Wright

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